

2010 Annual Ethics Training

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Goals

- Goal of this training:
 - To be more familiar with the formal ethics rules that govern your conduct as a public servant,
 - To be able to identify potential ethical issues, and
 - To be able to resolve ethical issues or know where to get help
- Remember:
 - None of the rules are reflective of your ***personal ethics***

INTRODUCTION

Town Hall – Let's Get Ethical

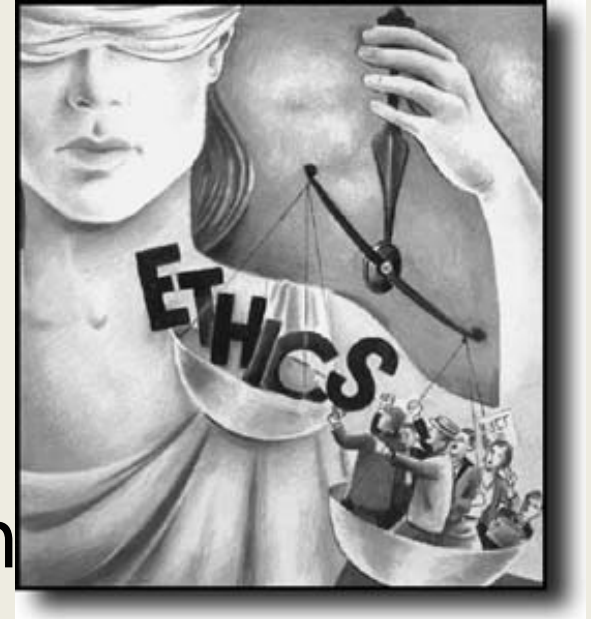
- <http://www.youtube.com/watch?v=wkaozXsKrcs&feature=related>



What principles should guide your Government?



Principles



- Public Service
- Impartiality
- No private gain – for anyone
- Protect and conserve public property
 - No unauthorized commitments binding the Government
- Improper use of non-public information
- No gifts from those whose interests you can affect

Overview



- Ethics rules
- Use of Resources
- Gifts
- Contractors in the workplace
- Political Activities
- Post-government employment

3 Major Elements

- **Ethics**



- **Compliance**



- **Enforcement**



Applicable Law And Regulations

All federal employees should be familiar with statutory and regulatory prohibitions:



- Code of Ethics – 14 Principles
- Standards of Ethical Conduct for Executive Branch Employees 5 C.F.R. Part 2635
- The Joint Ethics Regulation (JER), DoD 5500.7-R.
- 18 United States Code Sections 205, 207, 208, 209.

Misadventures in Ethics

Use of Government Resources



Misadventures in Ethics Information

RULE:

If you gain nonpublic information
through federal employment ~

It is IMPERMISSIBLE to use that
information for personal financial
transactions or to further private
interests – Any one's private
interests

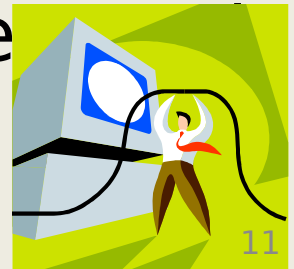
Misadventures in Ethics

Misuse of Government Resources

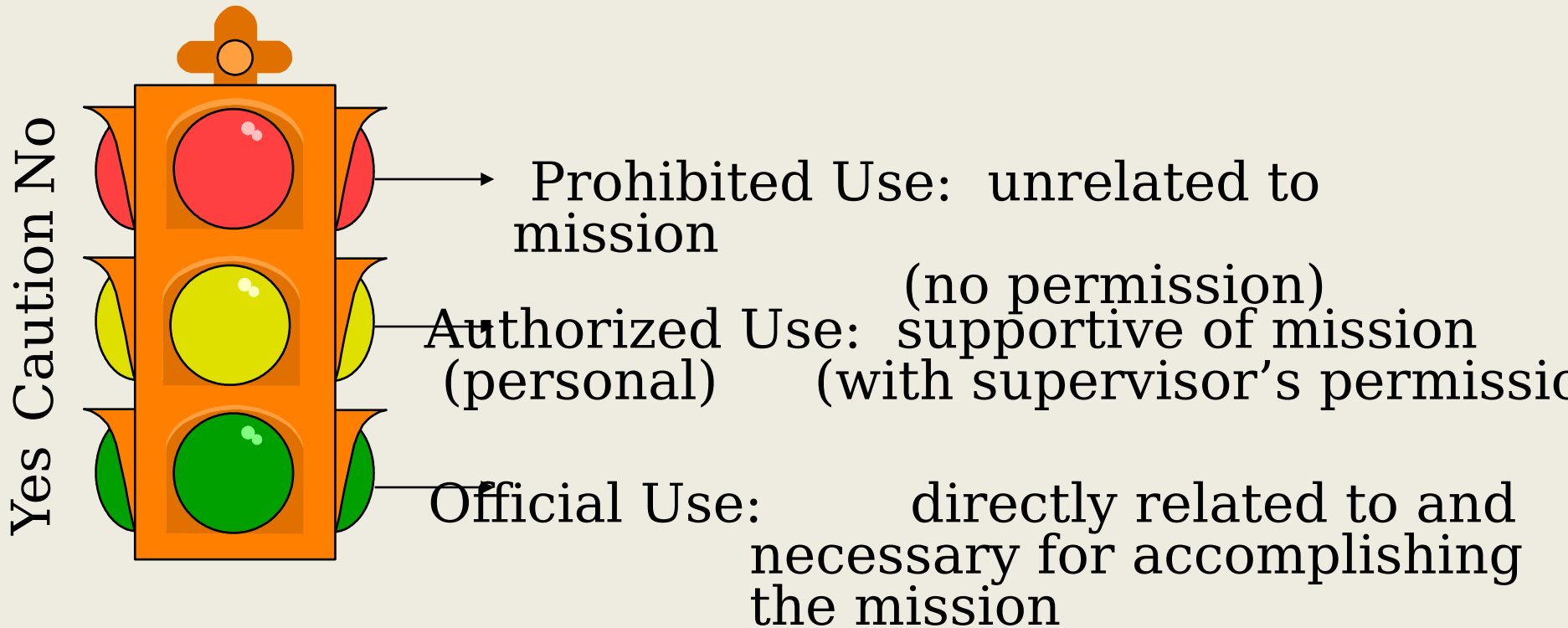
RULE:

Employees shall protect and conserve Federal property and shall not use it for other than authorized purposes (5 CFR 2635.101(b)(9))

Computer misuse is quickly becoming the most prevalent form of challenging behavior among federal employees -- and agencies . . .struggle with how to re



Types of Use Telecommunications





Prohibited Uses

JER, § 2-301a/AR 27-1

- **Pornography**
- **Chain letters**
- **Unofficial advertising**
- **Solicitation or sales**
- **Conducting outside commercial activities**
- **Other inappropriate uses**
- **Gambling**





Authorized Use Government Communications Equipment

- Necessary to Government's best interest
- Personal communications in emergencies
- Approved personal communications when deployed
- Notify family when on off





Additional Uses When Permitted

may permit personal use of government communications systems when all of the following apply –

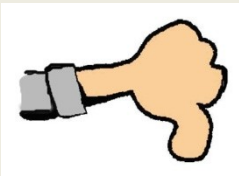
- **No adverse effect on official duties**
- **Reasonable duration and frequency**
- **On personal time whenever possible**
- **Serve legitimate public interest**
- **No adverse reflection on Government**
- **Do not overburden communications**
- **No significant additional cost to DoD**
- **No long distance charge to Government**



Use of Communication Systems

AR 25-1, 6-1e. Authorized uses of communication systems. Authorized use includes brief communications made by DOD employees while they are traveling on Government business to notify family members of transportation or schedule changes. They also include personal communications from the DOD employee's usual workplace that are most reasonably made while at the work place (such as checking in with spouse or minor children; scheduling doctor, auto, or home repair appointments; brief Internet searches; e-mailing directions to visiting relatives).





Misadventures in Ethics

Use of Government Resources

RULE:

Use of government resources in support of your outside commercial activities is **ALWAYS** prohibited.

(5 CFR 2635.704, 5 CFR 2635.70

301)



Food



Food

Personal Expense

(Unless Specific Authority Exists)

- Travel – TDY, Per Diem
- Training – Meals essential to accomplishing training objectives.
- Authority for “Breaks?”



Not so Good Stewards

- One small snack for man, one giant bill for taxpayers: NASA seminar pays \$66 a head for bagels
- NASA Pays Sky-High \$66 a Person/Day for Seminar Snacks
- Other conferences provide meals, saved money if extended the training conference

What about these expenses?

- Conference

- About 750 attendees; 350 from NCR
- Lunches - \$38 per person - \$13,300
- Dinner - \$20.75 - \$7262.50



- Food – all attendees from NCR

- Proposed breakfast, lunch, and two snack breaks
- \$15,000+
- Training postponed

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- Food for all
- Audiovisual - \$238,000
- Travel arranged by the support contractor
 - No ITOs
 - Estimated travel at \$150,000 (cancellation, not refundable, since travel not booked through Government system)

Problems



- Contractors
 - Entered into facilities contract
 - Inherently Governmental functions
 - Not the best deal

Army Delivery Order for support includes a section that states that the Army is under contract to conduct conferences and other events to include securing facility arrangements

DA Memo 1-17 reminds personnel that: *“All contracts related to holding the conference (for example, facility contracts and conference support contracts) must be fully funded with an approved Government appropriation prior to contract award. All contracts must be signed by a warranted contracting officer.”*

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As best I can interpret, there isn't a specific restriction that prohibits the government from providing meals to non-Government individuals while attending a government sponsored events, regardless of their travel status.

Gifts



To the Individual – Personal Capacity

Gifts Among Employees – From Subordinates



General Rule



- ***Prohibited*** from accepting a gift:
 - Because of your position (remember bribe!)
 - From a prohibited source – Contractor employees are ***prohibited sources***
- Gift is to you – Personal Capacity



Gifts from Outside Sources

- “Prohibited Source” includes any person or entity that:
 - is seeking official action
 - does or seeks to do business
 - is regulated by
 - has interests substantially affected by employee’s official duties
 - organization whose majority is made up of one or more of the above



Gift

Is it a gift? If not a gift, no prohibition

Exclusions:

Non-gifts:

- Modest items of food and refreshments (like coffee and donuts) when not served as a meal.
- Prizes in contests open to the public.
- Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, intended only for presentation.
- Commercial discounts available to the public or to all Government civilian or military personnel.
- Anything you pay market value (i.e., face value).

Exceptions to General Gift Prohibition

- Note: These exceptions generally do not apply to gifts from lobbyists prohibited by the Ethics Pledge
- Gifts valued at \$20 or less – but NO cash
 - Not more than \$50 from one source in a year
- Gifts motivated by personal relationships:
 - Relationships developed on the job are generally considered professional, not personal



Exceptions to General Gift Prohibition

cont.

- Free attendance, food, and entertainment (excluding travel) when provided by sponsor of an event on day that you are speaking or presenting information; or at a widely attended gathering (WAG), and determination is made that attendance is in agency's interest

Widely Attended Gatherings (WAG)

- Unsolicited offer of free attendance or free food at an event
- Two parts
 - Is the event a WAG?
 - Is there an Army interest in you attending this event?
- Supervisor makes the determination of Army interest – **NOT you** as the invitee



Is The Event A WAG?



- Sponsor of the event - A large number of persons will attend and that persons with a diversity of views or interests will be present.
- Non-sponsor of the event
 - Minimum of 100 people are expected to attend.
 - Value does not exceed \$335.

Determination Whether You Can Attend

- Acceptance will further the programs, operations, and policies of the particular command or organization to which the employee is assigned;
- AND***
- Acceptance will not undermine the integrity of the Army's operations or programs.

When Acceptance Is **NOT** in the Army's Interest

- Person or organization who has extended the invitation has interests that may be substantially affected by the performance or nonperformance of your official duties
 - Do you have oversight of a contract pertaining to the organization extending the invitation?



Gifts from Subordinates

- Must be voluntary
- Limit \$10 generally
- Special Occasions
 - Limitations
 - \$300 per donating Group
- Contractors may not be included in the donating group.
- If a contractor gives as part of subordinate donating group, then there are stricter limitations.



Misadventures in Ethics Gifts

DOT Report Substantiates Whistleblower's Allegation of FAA Ethics Violation

Several FAA managers and their spouses attended a dinner hosted and paid for by representatives of Dell, Inc. (Dell), a primary provider of computer equipment and software to FAA. The investigation found that Dell is a government contractor providing services and equipment to FAA, and that the employees who attended the dinner are responsible for providing input and recommendations for the Dell contract. Under 5 C.F.R. § 2635.202(a), federal employees are not permitted to accept gifts of value greater than \$20 from prohibited sources.



Misadventures in Ethics

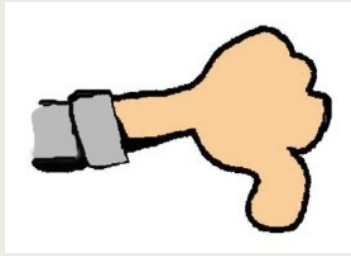
Gifts – How about Frequency

OIG investigation disclosed that about “1/3 of the entire staff socialized and received a wide array of gifts and gratuities from oil and gas companies with whom [the staff] were conducting official. While the dollar amount of the gifts and gratuities was not enormous, these employees accepted gifts with prodigious frequency. In particular, two [employees] received combined gifts and gratuities on at least 135 occasions.”



Misadventures in Ethics Contractors in the Workplace





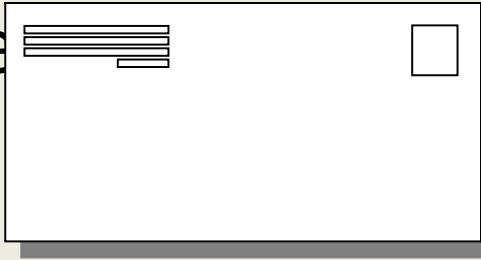
No No's

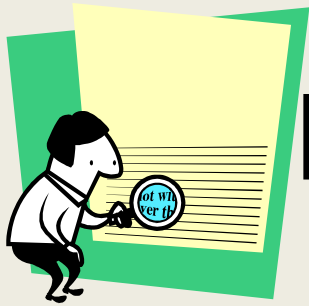
- **May not accept a gift from a contractor unless an exception applies**
- **May not give a contractor a letter of recommendation in one's official capacity - impermissible endorsement**
- **May not give a contractor an award**

Recommendations

- Prohibited from using his official position, title or authority to endorse any person, product, service or enterprise.
 - includes the use of official stationery and star notes.
- Cannot commend the performance of a contractor or a contractor's products or services.
 - If a Government employee, **who has authority over the contract**, can make a simple factual statement that the contractor's work satisfied the Government's requirements.
- After consulting with the contracting officer, can provide a statement indicating that the contractor met all benchmarks.

Recommendations

- If the contractor is applying for a Government job, you may use your official title and official stationery.
- For all other recommendations, personal.
 - May include your position as a statement of fact.
 - No official stationery, re  me.



Not An Endorsement

- The general rule is that an Army official may respond to a request for information on a DoD contractor received from another governmental entity.
 - Past Performance
 - But, this means to another Federal agency, not the contractor

Awards



- Persons or organizations having a commercial or profit-making relationship with DoD shall not be granted recognition (DoD 1400.25-M, Subchapter 451)
- AR 672-20 prohibits award to contractors, to include Certificates of Appreciation
- DA policy also prohibits giving coins purchased with appropriated funds to contractor personnel (DA Memo 600-70, para. 5d(2)).



Political Activities

Election Year

Political Activities



- Long-standing policy, employees acting in their official capacities may **NOT** engage in activities associating DoD with any partisan political campaign or election.
- Must ensure political activities do **NOT** create a real or apparent conflict of interest with the performance of their official duties.

Law and Policies



- DOD Public Affairs Guidance (PAG), Subject: DoD Public Affairs Policy Guidance Concerning Political Campaigns and Elections, April 27, 2010
 - Installation commanders will not allow the use of installations facilities by any candidate for political campaign or election events
 - Includes, public assemblies or town halls, fundraiser, press conferences, post-election celebrations
- Soldiers and other uniformed members governed by DoDD 1344.10 and AR 600-20
 - Cannot appear in or support political campaign or election events
 - Wear of uniform prohibited
- Hatch Act – applicable to civilian employees

Permitted Activities by Soldiers



- Register, vote, and express their opinions on political candidates and issues, but not as representatives of the Armed Forces;
- Attend partisan and nonpartisan political meetings or rallies as spectators, however, they may not attend: (a) in uniform, (b) during duty hours, (c) when violence is likely to result, or (d) when their activities constitute a breach of law and order;
- Make monetary contributions to a political organization, but not to other members of the Armed Forces on active duty or employees of the Federal Government,

Post-Government Employment

Apply to ALL Federal
Employees and Officers



Post-Government Employment Restrictions

Representational Restrictions

18 U.S.C. § 207

Prohibits representing another before U.S. Government with intent to influence

- Lifetime ban
- 2-year ban
- 1-year cooling-off period for senior employees
- 1-year ban on senior employees representing foreign entities

Questions ???



For an electronic copy of the slides or training confirmation please contact Ms. Tracy Hall at tracy.l.hall2@us.army.mil or 703-693-6552.